



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Review Development Impact Mitigation Fee Application

MEETING DATE: October 3, 1991

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council review the staff report on the intent of the recently adopted Development Impact Mitigation Fees and take no action.

BACKGROUND INFORMATION: Since the adoption of the Development Impact Mitigation Fee Ordinance on September 4 (which will go into effect November 4), there have been some questions raised as to its applicability to vacant lots within the City.

As it pertains to this issue, the ordinance states:

15.64.020 Definitions

"D. 'Development' or 'Project' means any of the following:

1. For water, sewer and storm drainage impact fees: any new connection to the City System or increase in service demand.
2. For streets impact fees: any project that increases traffic.
3. For police, fire, park; and recreation and general City facilities impact fees: any project generating new or increased service demand."

15.64.040 Payment of Fees

"A. The property owner of any development project causing impacts to public facilities shall pay the appropriate Development Mitigation Fee as provided in this Chapter . . ."

"D. If a final subdivision map has been issued before the effective date of this Ordinance, then the fees shall be paid before the issuance of a building permit or grading permit, whichever comes first."

(In the draft ordinance, subsection "D" was lettered "C"; the change was due to the Council's request to split payment for subdivision projects at final map and acceptance of improvements.)

APPROVED. -- _____

THOMAS A PETERSON



recycled paper

"SECTION 4. Effective Date. This ordinance takes effect 60 days after its adoption. For purposes of this Chapter, building permit applications accepted and deemed complete prior to the effective date shall not be subject to the Ordinance."

The language is clear that vacant or partially vacant property in the City will be subject to the fees, whether it has frontage improvements, a map or other approval short of a completed building permit application.

Concerns have been raised about charging property already within the City limits. This property can be separated into many categories of development stage(s) including any combination of the following:

- 1) vacant (no building permit)
- 2) partially vacant (building permit on a portion of the parcel)
- 3) with or without frontage improvements
- 4) created with a final subdivision map or not
- 5) storm drain fees (previous impact fee) paid or not
- 6) nonconforming uses
- 7) conforming uses subject to obtaining a use permit
- 8) proposed uses requiring a rezoning
- 9) proposed project requiring a subdivision map
- 10) proposed project requiring some public improvement

Thus, without including all, it is more difficult to write and explain an ordinance that differentiates among them. If Council wishes to do so, staff will need additional direction. Also, the City has three recent annexations done prior to completion of the General Plan for which the property owners have signed agreements stating they will pay the fees. Staff assumes any development definition or new policy will require these parcels to pay the new fees.

Due to the Council's concern over this issue, staff has prepared an outline of the basic concepts and guiding policies of the adopted ordinance as it pertains to the fee calculations (Exhibit A). Exhibits B, C, D and E describe four alternate policies that address the concerns raised. However, some have serious implications for the entire program- The adopted ordinance will need minor to major revision depending on Council direction and the fees may need to be recalculated. These will be reviewed in more detail at the Council meeting.

Exhibit D describes the protection provided new development by a "vesting" map. This type of map was added to the City Code in 1986 as required by state law. Normally, and as was the case in Lodi, projects with an approved tentative map were protected from changes in development policies until the final map was filed. The vesting statutes fix and extend this protection for two years following final map filing. To obtain these rights, the developer must add the word "vesting" to the tentative map. Very few have done so.

Review Development Impact Mitigation Fee Application
October 3, 1991
Page 3

Staff recommends that the ordinance be left as adopted.

FUNDING: Not applicable.



Jack L. Ronsko
Public Works Director

Prepared by Richard C. Prima Jr., Assistant City Engineer

JLR/RCP/lm

Attachments

cc: City Attorney

Exhibit A

City of Lodi Development Impact Mitigation Fees

Basic Concepts & Guiding Policies of Adopted Ordinance

- 1) If there is new service demand (*impact*), the project pays its fair **share** (*fee*).
- 2) Payment at Final Map vs. at Building Permit or other time is **a** matter of **when** the **fee** is **paid**, not **that** it is **owed**.
- 3) Costs would be **spread** equally throughout the City wherever reasonable.
- 4) The new fees **are not** **paying** for **normal** frontage improvements; whether they are **in** place or not **does** not change **the** impact **on** the **services** for which the **fees are being** Charged.
- 5) Just **because** capacity improvements **are** built and paid for doesn't **mean** that subsequent **buildings** (*service demand which uses that capacity*) should not pay the fee; **they** still **need** to pay their fair **share**.
- 6) Existing **service** demands **and** levels **of service** were based **on** present population and **occupancies**.
- 7) All **projects reasonably** attributable to **growth** (*increased service demand*) are included.

Pro

Present ordinance **and** policies adequate.

Treats all property equally.

Consistent **with** past implementation of new development fees (*Storm Drainage, Sewer Connection*).

Con

Changes the "rules" on **projects** previously approved **but** not completed prior to the ordinance. (*Although the "rules" have been years in the making*)

Exhibit B

Alternate Policy 1

For all land within the City that is zoned for development, the City is responsible for the service impacts of that development.

Pro

Fewer projects on which to calculate fees. (~~Fees~~ would only apply to projects needing rezoning and not necessarily to lot splits or other approvals.)

Will promote "infill". (Those owners of property inside the City limits will have a financial advantage over newly annexed property.)

Con

Significant impact on fee calculations. (Acreage involved is approx. 7% of total)

Serious problem with equity of new fee program if not redone (fee could go up, down, or stay the same due to level of service definition and "existing deficiency" calculations), or City could pay the fee for those projects.

Contrary to past practices. (Sewer connection fee for example)

Would exempt vacant parcels within the City from existing Storm Drain Fee, also contrary to past practice.

Will be difficult to explain "who pays" and "who doesn't" to builders. (Project with proper zoning but filing a map doesn't pay, but one needing a rezoning pays.)

Alternate Policy 2

Service ~~impacts of projects~~ utilizing developed "infill" land are the responsibility of the City. For purposes of this Policy, developed ~~means the parcel:~~

- o) has been legally subdivided ~~or~~ created, and;
- o) has off-site improvements normally required as part of development, and;
- o) all ~~the~~ necessary approvals and permits to build except a building permit, lot line adjustment or parcel merger.

(definition will need "fine tuning")

Pro

Fewer ~~projects~~ on which to calculate fees, although more than Alternate Policy 1. *(Fee would apply to projects needing rezoning, lot splits or other approvals. Some question on use permits, will need additional discussion.)*

~~Will~~ promote "infill". *(Those owners of developed property inside the City limits will have a financial advantage over newly developed property.)*

Con

Less impact on fee calculations ~~than~~ Alternate Policy 1. *(Acreage involved is between 4½ and 7% of total)*

Possible problem with equity of new fee program if not redone *(fee could go up, down, or stay the same due to level of service definition and "existing deficiency" calculations)*, or City could pay the fee for those projects.

Contrary to past practices. *(Sewer connection fee for example)*

Would exempt some vacant parcels within the City ~~from~~ existing Storm Drain Fee, also contrary to past practice.

May be difficult to explain "who pays" and "who doesn't" to builders. *(Who pays depends on definition of "developed".)*

Exhibit D

Alternate Policy 3

Previous development projects that have received the appropriate approvals ~~prior~~ to obtaining a building permit as evidenced by payment of the then current development impact mitigation fee (*Master Storm Drainage Fee*) have the right to develop as approved without the imposition of new development impact mitigation fees.

Pro

Less impact on fee calculations than Alternate Policies 1 or 2. (*Acreage involved is approx. 4½% of total*)

Will promote "infill". (*Those owners of property inside the City limits which have paid SD fees will have a financial advantage over property that has not paid.*)

Con

Equity concern, possible legal challenge. (*What does previous payment of Storm Drain Fee have to do with impact on Water, Police, etc?)*

Alternate Policy 4

The most protection provided by State law (~~outside of a special development agreement~~) that a project can have ~~from~~ subsequent changes in zoning, development requirements ~~or~~ imposition of new fees is a "vesting" tentative map. That protection lasts for **two years after** map **filing**. ~~Therefore~~ parcels which have **filed a final subdivision or parcel map** and have received the appropriate **approvals** prior to obtaining a building permit as evidenced by payment of the then current development impact mitigation fee (~~Master Storm Drainage Fee~~) have the right to develop as **approved without** the imposition of new development impact mitigation fees for a period of two years. (*In effect this grants "vesting" map status to these projects even though they did not ask for it.*)

Pro

Negligible impact on fee calculations.

Could be implemented with ~~minor~~ change in ordinance, immediately if **made an** urgency ordinance.

Con

Some additional administrative ~~effort~~ to determine various dates.

Same equity concern as Alternate **Policy** 3 but **to a** much lesser extent.



CITY OF LODI

CARNEGIE FORUM
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: October 16, 1991

Time: 7:30 p.m.

For information regarding this Public Hearing
Please Contact:

Alice M. Reimche
City Clerk
Telephone: 333-6702

NOTICE OF PUBLIC HEARING

October 16, 1991

NOTICE IS HEREBY GIVEN that on Wednesday, at the hour of 7:30 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing to consider the following matter:

- a) to consider adopting as an urgency ordinance an amendment to Lodi's Development Fee Ordinance to modify the definition of projects subject to new development fees.

All interested persons are invited to present their views **and** comments on this matter, Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order Of the Lodi City Council:

Alice M. Reimche
Alice M. Reimche
City Clerk

Dated: October 3, 1991

Approved as to form:

B W McNatt
Bobby W. McNatt
City Attorney